

**DECISION**

20111  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE:** B-211673

**DATE:** May 19, 1983

**MATTER OF:** Davis & Vogl Accountancy Corporation

**DIGEST:**

1. Protest received nearly 1 month after protester knew or should have known that its proposal was rejected as late is untimely under GAO Bid Protest Procedures.
2. A late proposal sent by Express Mail 2 days before due date can only be considered if the late receipt is found to be due solely to mishandling by the Government after receipt at the Government installation.

Davis & Vogl Accountancy Corporation protests the U.S. Department of Agriculture's (USDA) rejection of its late proposal in response to Request for Proposals OIG-83-R-13, on grounds that it should not be penalized for delays caused by the U.S. Postal Service. We dismiss the protest.

Our Bid Protest Procedures, 4 C.F.R. 21.2(b)(2) (1983) require that protests of this nature be filed (received) not later than 10 working days after the basis of the protest is known or should have been known.

Davis & Vogl was notified by a letter of March 30, 1983, from the USDA contracting officer that its proposal was rejected because it was received late. Davis & Vogl should have known the basis of its protest in early April, but did not file the protest in our Office until May 3, 1983, more than the 10 working days provided in the Bid Protest Procedures. The protest is therefore untimely.

025633

B-211673

In any case, the standard late bid clause in federal solicitations permits consideration of late proposals sent by mail (or telegram if authorized) if it is determined that the late receipt was due solely to mishandling by the Government after receipt at the Government installation or if the proposal was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of offers. Receipt by the Postal Service is not receipt at the Government installation and Express Mail is not the equivalent of registered or certified mail (Davis & Vogl mailed its proposal 2 days before the due date). The proposal appears to have been properly rejected. KOH Management and Computer Systems, Inc.,  
B-208683, August 31, 1982, 82-2 CPD 197.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel